IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 1493 of 2005
Date of Decision:May 14, 2010

Hem Raj and another .....Petitioners

Versus

Jaswant Singh and another .....Respondents

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.Akshay Bhan, Advocate for the petitioners.
Mr.Amandeep Singh Rai,Assistant Advocate General,Punjab
None for respondent No.1

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Sabina, J.

Petitioners were convicted for an offence under Sections 419,471,467 read with Section 120-B of the Indian Penal Code (`IPC' for short) vide judgment dated 24.3.2004 by the Judicial Magistrate Ist Class, Rajpura. Vide order of even date, petitioners were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- each under Section 419 IPC; to under rigorous imprisonment for a period of one year and a fine of Rs.1000/- each under Section 471 IPC and was further ordered to undergo rigorous imprisonment for a period of two years and a fine of Rs.3000/- each under Section 467 IPC . All the substantive sentences were ordered to run concurrently. Aggrieved by the

same, petitioners preferred an appeal and the same was dismissed with the modification by setting aside their conviction and sentence under Section 471 IPC, by Additional Sessions Judge Patiala vide judgment dated 3.8.2005. Hence, the present revision petition.

The brief facts of the case, as noticed by the Appellate Court in para 2 of its judgment, are as under:-

> "2. The proceedings were initiated by Jaswant Singh complainant by filing a criminal complaint in the Court with the averments that he had two brothers namely Harpal Singh and Balbir Singh, out of whom Harpal Singh has died and Balbir Singh had been missing for the last more than 7 years prior to the filing of the complaint. Gurmit Kaur accused/applicant is the widow of Harpal Singh. Balbir Singh was unmarried and issueless and the complainant is his only legal heir. The complainant moved an application for deletion of the name of Balbir Singh from the revenue record, which was contested by Gurmit Kaur. She never produced Balbir Singh before the revenue authorities, rather propounded a power of attorney and will of Balbir Singh, both dated 14.8.1989. These documents were forged and fabricated by accused No.1 inconnivance with and in conspiracy with accused No. 2 to 4 to grab the property of Balbir Singh. Some one has impersonated in place of Balbir Singh while forging the will and power of attorney. The general power of attorney was not got registered, but was got attested from Notary Public Rajpura. These documents came to the notice of the complainant during the revenue proceedings. Hence, this complaint."

During the course of arguments, learned counsel for the petitioners, has not challenged the conviction of the petitioners under Sections 419 and 467 read with Section 120-B IPC but has submitted that the sentence qua imprisonment be reduced to already undergone by the petitioners. Learned counsel has further submitted that the complaint relates to the year 1990. The Will alleged to have been forged was never used at any point of time as genuine by the petitioners. Petitioners had merely attested the Will and power of attorney. Petitioner No.1- Hem Raj is bed ridden as he has suffered a cervical spine injury. Fine is stated to have already been deposited by the petitioners.

Keeping in view the submissions made by the learned counsel for the petitioners, it is a fit case where the sentence qua imprisonment is liable to be reduced to already undergone by the petitioners.

Hence, the conviction of the petitioners under Sections 419,467 read with Section 120-B IPC is maintained. However, the sentence qua the imprisonment of the petitioners is reduced to already undergone by them.

Petition stands disposed of accordingly.

(Sabina)
Judge

May 14, 2010
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